

### **REMARKS**

Claims 1, 4-8, 11-15 and 18-24 are pending. By this response, claims 1, 8, 15 and 24 are amended and claims 2, 3, 9, 10, 16 and 17 are cancelled. Reconsideration and allowance based on the above amendments and following remarks are respectfully requested.

### **35 U.S.C. § 112 Rejection**

Claims 1-24 are rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. Specifically, the Examiner refers to the amendments made in the previously response dated July 10, 2006 with regard to independent claims 1, 8, 15 and 24 as not being enabled in the Applicant's specification. Applicant notes that independent claims 1, 8, 15 and 24 have been amended to remove the previous amendments made in the July 10, 2006 response. Accordingly, Applicant respectfully submits that that rejection is no longer applicable. Accordingly, withdrawal of the rejections is respectfully requested.

### **Prior Art Rejections**

The Office Action rejects claims 103, 8-10 and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over Fukui et al. (U.S. 6,466,685) and claims 4, 5, 11, 12, 18 and 19 under 35 U.S.C. § 103(a) over Fukui and Kado et al. (U.S. 6,181,806) and claims 6, 7, 13, 14 and 20-24 under 35 U.S.C. § 103(a) as being unpatentable over Fukui and Fujimoto et al. (U.S. 6,035,074). These rejections are respectfully traversed.

Independent claims 1, 8, 15 and 24 have now been amended to include features of extracting a face area based on a result of a position matching by generating unsharp images of a face template in an area corresponding to the face template and image and calculating a degree of

matching between the unsharp images in accordance with the position matching and extracting the face area based on the degree of matching. Applicant respectfully submits that this feature is not taught by the prior art including the applied references Fukui and Fujimoto.

Fukui teaches a pattern recognition apparatus performing pattern recognition excluding unnecessary pattern change elements from the image. An input subspace is calculated from an input image pattern. A dictionary subspace section calculates the subspaces from each object for storage in the dictionary subspace memory. A constraint subspace calculation is performed from the plurality of input subspaces which appears to be calculated according to certain constraints to suppress unnecessary patterns. The projection section then projects the input subspace and the dictionary subspace onto the constraint subspace. A recognition section recognizes the objects by comparing the projected input subspace with the projected dictionary subspace. Fukui's systems relies upon the subspace method which is a pattern recognition method.

Fujimoto teaches an image processing system that performs recognition of a face using color data for recognition of the face. Upon recognizing the face area a frame is formed to the size of the face area. The area enclosing the frame is then cut out of the image. Fujimoto's system relies upon this color data for recognizing the face image and forming a template.

Applicant respectfully submits that neither Fukui or Fujimoto teach or suggest performing a degree of matching by generating unsharp images of the face template in an area corresponding to the face template in the image in calculating the degree of matching between the unsharp images, as claimed by Applicant. The Office Action also agrees that this feature is neither taught or suggested in Fukui and Fujimoto's teachings.

In the Office Action Official Notice is taken that the above noted features of Applicant's claims are well known in the art. Specifically in the Office Action it is stated that the Examiner takes official notice that "an image/or a template to perform image collation is well known in the art". See page 5, last paragraph of the Office Action. Applicant respectfully disagrees with the official notice taken.

Absent any evidence to support the Examiner's allegation of official notice with respect to the claimed subject matter, Applicant submits that such teaching of determining a degree of matching between an unsharp image template and unsharp image area corresponding to the template is not well known in the art. Applicant notes that "official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known." See MPEP §2144.03. Therefore, Applicant respectfully requests the Examiner provide documentary evidence to support the assertion under official notice or withdraw the rejection.

Further, Applicant submits that the claims recite distinct features in which the combination as a whole is not taught by the references applied or by the knowledge of one of ordinary skill. Neither Fukui or Fujimoto suggests performing a degree of matching, let alone by using an unsharp image template and an unsharp image area. Thus, even if documentary evidence to support the Examiner's official notice is provided, Applicant respectfully contends that one of ordinary skill would not be motivated to combine these teachings with the teachings of Fukui or Fujimoto if each of these references rely upon image matching using distinct techniques different from the claimed features and nowhere is there a suggestion to perform the

degree of matching as claimed by Applicant. Therefore, even if documentation is provided to support the Examiner's allegations, Applicant submits that motivation is lacking to combine the teachings with the teachings of Fukui and/or Fujimoto.

Further, Kado fails to remedy the deficiencies of Fukui and Fujimoto. Kado is used to provide teachings of the dependant claims.

In view of the above, Applicant respectfully submits that Fukui alone or in combination with Fujimoto fails to teach the feature of Applicant's independent claims 1-8, 15-24. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

### **CONCLUSION**

In view of the above, Applicant submits that claims 1, 4-8, 11-15 and 18-24 are distinguishable over the cited art. Consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 09/712,191  
Amendment dated October 31, 2006  
Reply to Office Action of July 31, 2006

Docket No.: 2091-0222P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: October 31, 2006

Respectfully submitted,

By

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